

LAND BOARD AGENDA ITEM **FINAL APPROVAL**

June 20th, 2011

DNRC NWLO /CS&KT Phase II Land Exchange

Proposal: Land exchange between the Department of Natural Resources and Conservation (DNRC) Northwest Land Office (NWLO) and the Confederated Salish and Kootenai Tribes (CS&KT). This the second exchange between CS&KT and DNRC, to exchange tribal lands north of the reservation boundary for trust lands in the South Fork Jocko Tribal Primitive Area.

Proponent: DNRC and CS&KT

Acres:

State Trust Land		
County	Legal Description	Acres
MISSOULA	LOTS 2,3,4,5,8,9,10,12,13, W1/2W1/2, NW1/4SE1/4, NE1/4SW1/4, Sec. 36, T17N, R17W	522.94
MISSOULA	ALL, Sec. 16, T16N, R17W	640
MISSOULA	E1/2, Sec. 16, T16N, R18W	320
MISSOULA	LOTS 1,2,3,4, W1/2, W1/2E1/2, Sec. 36, T16N, R18W	620.88
		2103.82
Confederated Salish and Kootenai Tribes Land		
County	Legal Description	Acres
FLATHEAD	W1/2SE1/4, SW1/4, Sec.22, T25N, R23W	240
FLATHEAD	NW1/4, NW1/4NE1/4, Sec.23, T25N, R23W	200
FLATHEAD	W1/2SE1/4, E1/2SW1/4, W1/2SW1/4, EXCEPTING THEREFROM that portion of the W1/2SW1/4 lying West of the West boundary of a County Road known as Nine Mile Road., Sec.26, T25N, R23W	183.1
FLATHEAD	W1/2, NE1/4, W1/2SE1/4, W1/2SE1/4SE1/4, W1/2NE1/4SE1/4, NE1/4NE1/4SE1/4, Sec.27, T25N, R23W	610
FLATHEAD	SW1/4, W1/2E1/2, NW1/4, EXCEPTING THEREFROM that portion conveyed to Flathead County in Deeds recorded August 18, 1939 under Recorder's Fee No. 2440 in Book 234, Page 355 and recorded September 2, 1939 under Recorder's Fee No. 2593 in Book 234, Page 381, records of Flathead County, Montana., Sec.28, T25N, R23W	634.86
FLATHEAD	E1/2NE1/4, E1/2SE1/4, Sec.28, T25N, R23W	
FLATHEAD	S1/2, Sec.29, T25N, R23W	320
FLATHEAD	LOTS 1, 2, 3 & 4, Sec.31, T25N, R23W	176.37
FLATHEAD	LOTS 1, 2, 3 & 4, Sec.32, T25N, R23W	179.26
FLATHEAD	LOTS 1, 2, 3 & 4, EXCEPTING THEREFROM Tract 1 of Subdivision No. 173 according to the map or plat thereof	152.34

6/8/2011

	on file and of record in the office of the County Clerk and Recorder of Flathead County, Montana.** , Sec.33, T25N, R23W	
FLATHEAD	GOVERNMENT LOTS 1, 2 & 3 , Sec.35, T25N, R23W	124.33
LAKE	S1/2SE1/4, Sec.30, T25N, R22W	80
		2900.26

Location: Flathead, Lake, and Missoula Counties

Beneficiary: Common Schools

The DNRC requests final Land Board approval of a proposed land exchange in Flathead, Lake, and Missoula Counties. The proposal is to exchange approximately 2,900 acres of Confederated Salish and Kootenai Tribal land outside the Flathead Indian Reservation boundaries, for State trust land in-holdings within the South Fork Jocko Tribal Primitive Area, approximately 2,104 acres. This land exchange received preliminary approval from the Board on September 20th, 2010.

The Trust Lands in the South Fork Jocko Tribal Primitive Area are subject to Tribal regulations; this area can only be used by Tribal members for traditional hunting and gathering activities. This restriction is applicable to all lands; state, federal, or private that would be located within the primitive area. As such, the potential for income generation or long-term appreciation for the Trust is limited.

EXCHANGE CRITERIA ANALYSIS

The following documents how this land exchange proposal meets or exceeds the Board of Land Commissioner's Land Exchange criteria and accrues benefits to the Common School Trust Beneficiaries.

1. EQUAL OR GREATER VALUE

The total appraised value of CS&KT lands is \$1,740,200 for 2,900.26 acres of grazing land in Lake and Flathead Counties.

The total appraised value of State Trust lands is \$1,721,100 for 2,103.82 acres of timber land in Missoula County. The value of the land received by the Common schools trust is \$19,100 greater than the land exchanged.

Trust land value	\$1,721,100 for 2,103.82 acres
CS&KT land value	\$1,740,200 for 2,900.26 acres

Meets criteria.

2. STATE LAND BORDERING ON NAVIGABLE LAKES AND STREAMS

No navigable lake or streams are located within the boundaries of Trust lands involved the exchange. The Upper Jocko Lake flows through a portion of the one Trust parcels proposed for exchange. However, the parcel is within the South Fork Jocko Tribal Primitive Area and is not open for general public recreation.

Meets criteria.

3. EQUAL OR GREATER INCOME TO THE TRUST

The State Trust parcels proposed for exchange are located within the South Fork Jocko Tribal Primitive Area. The Jocko property is timbered and has not been harvested since the creation of the tribal primitive area. The parcels in the primitive area can only be used by tribal members for historic hunting and gathering activities. Because of the area designation, DNRC has not leased the land for revenue generating purposes and has not proposed timber management activities. This parcel is currently generating no income for the Trust; the Rate of Return (RoR) with tribal restrictions over a 60 year analysis period is 0.0%.

The land proposed for acquisition by the State is located north of the community of Nirada, north of the Flathead Indian Reservation boundary. The land is grazing land with less than average productivity, and a small amount of timber scattered throughout. The parcel has limited roads and in the past has been used primarily for grazing purposes. Field evaluations conducted by DNRC staff indicate the total grazing productivity of the parcels at 465 AUMs, with projected annual net income of \$2,172. The projected income Rate of Return (RoR) on the Tribal land over a 60 year analysis period is 0.12%.

Trust land ROR	0.00%
CS&KT land ROR	0.12%

Meets criteria.

4. EQUAL OR GREATER ACREAGE

The proposal involves exchanging 2,103.82 acres of Common Schools Trust land located in Missoula County; for 2,900.26 acres of Tribal land in Lake and Flathead Counties. The Common Schools Trust receives an additional 796.44 acres in the exchange.

Trust land	2,103.82 acres
CS&KT land	2,900.26 acres

Meets criteria.

5. CONSOLIDATION OF STATE LAND

The scattered Trust parcels proposed for exchange are totally surrounded by tribal land, and are within the Flathead Indian Reservation, in the Jocko Tribal Primitive Area.

The Nirada land proposed for acquisition by DNRC is adjacent to or in close proximity to the land acquired in the first DNRC/CS&KT land exchange. With the acquisition of the parcels in this exchange, the state would own a total of 5557.77 acres, in three tracts of land. Both the State and CS&KT would benefit by the consolidation provided by this exchange.

Trust land	4 scattered parcels
CS&KT land	3 consolidated tracts

Meets criteria.

6. POTENTIAL FOR LONG-TERM APPRECIATION

The Trust land proposed for exchange is within a Tribal primitive area. Under current Tribal primitive area regulations, this area can only be used by Tribal members for traditional hunting and gathering activities. As such, the potential for long-term income generation and appreciation for the Trust is limited.

The lands proposed for Trust acquisition would come without restrictions on future use, and have good potential for long-term appreciation.

Meets criteria.

7. ACCESS

The Trust lands proposed for exchange to CS&KT have dirt and gravel road access, but Tribal regulations restrict legal access to the parcels to Tribal members only, or limited access as granted by the Tribe. There is little assurance of future management access for the State or for the general public.

The lands proposed for acquisition by the State, with the exception of 200 acres, are legally accessible for all lawful purposes and are accessible by the public for walk-in and limited motorized public recreation. This land is former working ranches, and has had limited public recreational use for over 100 years. The CS&KT has agreed that as a condition of closing the exchange, they will secure lawful all purpose access to the 200 acre parcel currently lacking access. Acquisition of this land would improve access for management and recreational use.

Trust land	limited access with Tribal restrictions
CS&KT land	Legal access without restrictions

Meets criteria.

A series of public hearings were held to solicit comments on the exchange. Meeting dates and locations were: Missoula, May 23, 2011; Kalispell, May 24, 2011; and Ronan, May 26, 2011. Attendance at the meetings was sparse, with no opposition to the exchange being expressed.

Cultural/Paleontological Resources:

The Department of Natural Resources and Conservation (DNRC), and the Confederated Salish and Kootenai Tribes (CS&KT) recognize that this exchange is a direct transaction between sovereign Governments. Consequently, when processing this land exchange, the DNRC need not conduct a cultural resource inventory of the subject State lands under Montana's Antiquities Act, Section 22-3-421, et seq., MCA, prior to the completion of the exchange with CS&KT, because the CS&KT is obligated to comply with the provisions of the National Historic Preservation Act, 16 USC Section 470, et seq. Thus, this land exchange will maintain the status quo for any cultural resources located upon the State lands. The CS&KT also agrees to comply with the National Historic Preservation Act requirements prior to authorizing any future ground disturbance or other alteration of cultural resources located upon the following parcels of land: Section 36, within Township 17 North, Range 17 West, Section 16, within Township 16 North, Range 17 West, Section 16, within Township 16 North, Range 18 West, and Section 36, within Township 16 North, Range 18 West.

AGENCY RECOMMENDATIONS

The Director believes this proposed land exchange would benefit the Trust beneficiaries, the State of Montana and the Confederated Salish and Kootenai Tribes. The DNRC and CS&KT agree that final approval and closing of the exchange should be contingent on the tribe securing lawful all purpose access to the 200 acre parcel currently lacking access. The Director requests that this exchange receive final approval from the Board.



CSKT/DNRC Exchange #2



Map produced March 08, 2011

